United Nations A/INF/53/5

General Assembly

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Fifty-third session

United Nations Administrative Tribunal

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, for their information, the attached note from the United Nations Administrative Tribunal to the President of the General Assembly.

98-40146 (E) 220199

Annex

Annual note by the United Nations Administrative Tribunal

1. At its third plenary session, held in Paris on 20 December 1951, the Administrative Tribunal decided to submit a note each year to the President of the General Assembly. In accordance with that decision, the following note is submitted in respect of the year 1998.

A. Appointment of members of the Tribunal by the General Assembly

2. At its 76th plenary meeting, on 18 December 1997, the General Assembly, on the recommendation of the Fifth Committee (see A/52/674/Rev.1), appointed Mr. Chittharanjan Felix Amerasinghe, Mr. Victor Yenyi Olungu and Mr. Hubert Thierry as members of the United Nations Administrative Tribunal for a three-year term of office beginning on 1 January 1998. On 31 March 1998, the Assembly appointed Mr. Kevin Haugh to serve as a member of the Tribunal for the remainder of the term of the late Mr. Francis Spain.

B. Composition of the Tribunal during 1998

3. In 1998, the Tribunal was composed of the following members:

Mr. Hubert Thierry, President
Mr. Mayer Gabay, First Vice-President
Ms. Deborah Taylor Ashford, Second Vice-President
Mr. Julio Barboza
Mr. Chittharanjan Felix Amerasinghe
Mr. Kevin Haugh
Mr. Victor Yenyi Olungu

C. Forty-ninth plenary session

4. The Tribunal met in annual plenary session in New York on 20 November 1998, pursuant to article 5, paragraph 1, of its rules. All members were present except for Ms. Deborah Taylor Ashford, who participated by speakerphone.

D. Judgements delivered during 1998

5. In 1998, the Tribunal held two sessions, one in Geneva from 29 June to 7 August, and one in New York from 26 October to 20 November. The composition of the panels and the corresponding judgements rendered are as follows:

Case No. 762: Thiam

(Thiam against the Secretary-General of the United Nations)
(Claim by former United Nations staff member for interpretation of Judgement No. 715)
Judgement AT/DEC/893

New York, 3 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Cases No. 820: Mansour
No. 880: Mansour

(Mansour against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA))
(Claim by former UNRWA staff member for revision of Judgement No. 777)
Judgement AT/DEC/894

Geneva, 7 July 1998
New York, 27 October to 20 November 1998

Ms. Ashford, presiding
Mr. Amerasinghe
Mr. Yenyi Olungu

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Case No. 852: Zéghouani

(Zéghouani against the Secretary-General of the United Nations)
(Claim by former United Nations staff member for correction of Judgement No. 748)
Judgement AT/DEC/881

Geneva, 3 July to 4 August 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Case No. 879: Museibes

(Museibes against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by former UNRWA area staff member for revision of Judgement No. 794)
Judgement AT/DEC/895

New York, 5 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Case No. 896: Baccouche

(Baccouche against the Secretary-General of the United Nations)
(Claim by former United Nations staff member for revision of Judgement No. 802)
Judgement AT/DEC/896

Geneva, 3 to 24 July 1998
New York, 3 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Case No. 939: Jhuthi

(Jhuthi against the Secretary-General of the United Nations)
(Claim by former United Nations staff member for rescission of disciplinary decision to dismiss him for misconduct)
Judgement AT/DEC/897

Geneva, 2 July to 7 August 1998
New York, 30 October to 20 November 1998

Mr. Gabay, presiding
Mr. Amerasinghe
Mr. Haugh

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Case No. 940: Sitnikova

(Sitnikova against the Secretary-General of the United Nations)
(Claim by staff member of the Economic and Social Commission for Asia and the Pacific (ESCAP) that there were procedural irregularities in the process for the classification of her post and that she was entitled to compensation therefor)
Judgement AT/DEC/892

New York, 30 June to 7 August 1998

Mr. Thierry, President
Mr. Gaba
Mr. Yenyi Olungu

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Case No. 947: Cellerier et al.

(Cellerier et al. against the Secretary-General of the United Nations)
(Claim by internationally recruited General Service staff members of the United Nations Environment Programme (UNEP) that the Secretary-General did not have the right to rescind a salary supplement on the ground that it had been "inadvertently approved")
Judgement AT/DEC/883

Geneva, 14 July to 4 August 1998

Mr. Thierry, President
Mr. Barboza
Mr. Haugh

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Case No. 955: Ossolo

(Ossolo against the Secretary-General of the United Nations)
(Claim by former staff member of the United Nations Development Programme (UNDP) that the failure to extend his fixed-term contract was improper because although his post was allegedly frozen owing to budgetary constraints, another staff member was hired on a Special Service Agreement the day after his separation, to perform the same functions he had been performing)
Judgement AT/DEC/882

Geneva, 13 July to 4 August 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Case No. 958: Uggla

(Uggla against the Secretary-General of the United Nations)
(Claim by former staff member of the United Nations Disengagement Observer Force (UNDOF) for rescission of disciplinary decision to dismiss him for misconduct)
Judgement AT/DEC/898

New York, 30 October to 20 November 1998

Mr. Gabay, presiding
Mr. Amerasinghe
Mr. Haugh

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Case No. 961: Bekele

(Bekele against the Secretary-General of the United Nations)
(Claim by staff member of the Office of the United Nations High Commissioner for Refugees (UNHCR) that the decision to terminate his appointment for reasons of health and grant him a disability benefit was not justified)
Judgement AT/DEC/868

Geneva, 30 June to 31 July 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Amerasinghe

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Case No. 962: Silveira-Crotty

(Silveira-Crotty against the Secretary-General of the United Nations)
(Claim by United Nations staff member that the Secretary-General did not make good-faith efforts to transfer her to another post and that she was mistreated by her supervisors. Claim that she has been performing functions at the GS-7 level and is therefore entitled to a special post allowance as well as a promotion to the GS-7 level)
Judgement AT/DEC/869

Geneva, 2 to 31 July 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Yenyi Olungu

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Case No. 963: Handelsman

(Handelsman against the Secretary-General of the United Nations)
(Claim by former United Nations staff member serving on an appointment under the 200 Series, for a termination indemnity on the basis of his length of service, the quality of his work and a legal expectancy of renewal)
Judgement AT/DEC/885

Geneva, 9 July to 4 August 1998

Mr. Gabay, presiding
Mr. Barboza
Mr. Haugh

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Cases No. 964: Choudhury
No. 965: Ramchandani

(Choudhury and Ramchandani against the Secretary-General of the United Nations)
(Claim by United Nations Staff members against the recommendations of the local appointment and promotion body not to include their names in the General Service promotion register. Claim that the omission of their names was attributable to discrimination against staff members of Indian nationality)
Judgement AT/DEC/870

Geneva, 1 to 31 July 1998

Ms. Ashford, presiding
Mr. Amerasinghe
Mr. Yenyi Olungu

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Case No. 966: Afawubo

(Afawubo against the Secretary-General of the United Nations)
(Claim by UNHCR staff member that the decision to assign him to another duty station and the decision not to promote him constituted retaliation by his supervisor for his exposing possible wrongdoing in the handling of project fuel fund)
Judgement A/DEC/884

Geneva, 13 July to 4 August 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Cases No. 967: Brimicombe
No. 968: Ablett

(Brimicombe and Ablett against the Secretary-General of the International Maritime Organization (IMO))
(Claim by retired IMO staff members that they should have received the same benefits accorded by Judgement No. 612 to currently serving staff members, namely, the retroactive grant of international recruitment status, because they were in a similar situation to that of the applicants in whose favour Judgement No. 612 was rendered)
Judgement AT/DEC/871

Geneva 7 to 31 July 1998

Ms. Ashford, presiding
Mr. Barboza
Mr. Haugh

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Case No. 969: Al-Omari

(Al-Omari against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by UNRWA international staff member that he was entitled to a termination indemnity resulting from his separation from his prior service as an area staff member)
Judgement AT/DEC/886

Geneva, 10 July to 4 August 1998

Mr. Thierry, President
Mr. Barboza
Mr. Haugh

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Case No. 970: Randall

(Randall against the Secretary-General of the United Nations)
(Claim by United Nations staff member that she was not fully and fairly considered for promotion and that this resulted in her not being promoted to the P-5 level)
Judgement AT/DEC/899

New York, 28 October to 20 November 1998

Mr. Gabay, Presiding
Ms. Ashford
Mr. Amerasinghe

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Case No. 971: Hjelmqvist

(Hjelmqvist against the Secretary-General of the United Nations)
(Claim by former United Nations staff member assigned to the Guard Contingent in Iraq that he was insufficiently compensated for his service-incurred injuries)
Judgement AT/DEC/872

Geneva, 6 to 31 July 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Amerasinghe

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Case No. 972: Ludvigsen

(Ludvigsen against the Secretary-General of the United Nations)
(Claim by staff member of the United Nations Centre for Human Settlements (Habitat) (UNCHS) that the Secretary-General was not entitled to recover five years of erroneous overpayment of a rental subsidy)
Judgement AT/DEC/887

Geneva, 14 July to 4 August 1998

Mr. Thierry, President
Mr. Barboza
Mr. Haugh

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Case No. 973: Salma

(Salma against the Secretary-General of the United Nations)
(Claim by former United Nations staff member that she was denied the right to be accorded fair and up-to-date performance evaluation reports, resulting in failure to be duly considered for promotion with retroactive effect to 1991, and that the decision to reassign her violated her rights)
Judgement AT/DEC/900

New York, 28 October to 20 November 1998

Mr. Gabay, presiding
Mr. Amerasinghe
Mr. Haugh

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Case No. 974: Patel

(Patel against the Secretary-General of the United Nations)
(Claim by United Nations staff member that the Secretary-General had accepted the recommendations of the Joint Appeals Board but did not properly implement them.
Claim that he was entitled to a higher amount of compensation for the payment of storage of his household effects and that he was entitled to a greater daily subsistence allowance than he was paid)
Judgement AT/DEC/873

Geneva, 6 to 31 July 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Amerasinghe

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Case No. 975: Abbas

(Abbas against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by former UNRWA area staff member that the Agency should have re-employed him after the withdrawal of his resignation)
Judgement AT/DEC/874

Geneva, 1 to 31 July 1998

Mr. Thierry, President
Ms. Ashford
Mr. Haugh

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Case No. 976: Thacker

(Thacker against the Secretary-General of the United Nations)
(Claim by former United Nations staff member serving on a permanent appointment for rescission of the decision to terminate her appointment on the ground of abolition of post)
Judgement AT/DEC/875

Geneva, 9 to 31 July 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Amerasinghe

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Case No. 977: Tinkl

(Tinkl against the Secretary-General of the United Nations)
(Claim by former staff member of the United Nations Institute for Training and Research (UNITAR) that she is entitled to payment for additional days of annual leave, as the Joint Appeals Board had recommended)
Judgement AT/DEC/876

Geneva, 30 June to 31 July 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Amerasinghe

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Case No. 978: Sookia

(Sookia against the Secretary-General of the International Maritime Organization)
(Claim by former IMO staff member that his regular appointment was improperly terminated under the Staff Regulations and Rules)
Judgement AT/DEC/888

Geneva, 9 July to 4 August 1998

Mr. Gabay, presiding
Mr. Barboza
Mr. Amerasinghe

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Case No. 979: Abu Salem

(Abu Salem against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by UNRWA area staff member, also on behalf of other staff members, that certain increases in the salary scales announced on 13 September 1994, with effect from 1 October 1994, were insufficient, did not correspond to the comparator salary increases and should have been applied retroactively)
Judgement AT/DEC/901

Geneva, 8 July to 3 August 1998
New York, 6 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Haugh

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Case No. 980: Augustine

(Augustine against the Secretary-General of the United Nations)
(Claim by former staff member of the United Nations Children's Fund (UNICEF) for rescission of the decision to summarily dismiss him for serious misconduct)
Judgement AT/DEC/890

Geneva, 2 July to 7 August 1998

Mr. Gabay, presiding
Mr. Amerasinghe
Mr. Haugh

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Case No. 981: Abdulhadi

(Abdulhadi against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by former UNRWA area staff member for rescission of the decision to terminate her appointment in the interests of the Agency)
Judgement AT/DEC/877

Geneva, 8 to 31 July 1998

Mr. Thierry, President
Ms. Ashford
Mr. Haugh

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Case No. 982: Orfali

(Orfali against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by former UNRWA area staff member who was terminated for health reasons, that he should receive a disability benefit for an alleged service-incurred injury)
Judgement AT/DEC/878

Geneva, 1 to 31 July 1998

Mr. Thierry, President
Ms. Ashford
Mr. Amerasinghe

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Case No. 983: Karmel

(Karmel against the Secretary-General of the United Nations)
(Claim by UNICEF staff member serving on a permanent contract that she was unfairly treated when the Administration failed to promptly find her a new permanent position following the abolition of her post)
Judgement AT/DEC/879

Geneva, 7 to 31 July 1998

Ms. Ashford, presiding
Mr. Barboza
Mr. Amerasinghe

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Case No. 984: Macnaughton-Jones et al.

(Macnaughton-Jones et al. against the Secretary-General of the United Nations)
(Claim by staff members of the United Nations Iraq-Kuwait Observation Mission (UNIKOM) that the Administration has improperly sought to recover mission subsistence allowance paid in connection with weekends, holidays and days off)
Judgement AT/DEC/902

Geneva, 16 July to 3 August 1998
New York, 3 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Haugh

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Case No. 985: Ayoub

(Ayoub against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by former UNRWA area staff member for rescission of decision to terminate his appointment in the interests of the Agency and not to reinstate him)
Judgement AT/DEC/889

Geneva, 8 July to 4 August 1998

Mr. Thierry, President
Mr. Barboza
Mr. Haugh

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Case No. 986: MacMillan-Nihlén

(MacMillan-Nihlén against the Secretary-General of the United Nations)
(Claim by former United Nations staff member that her post should have been classified at the G-7 level)
Judgement AT/DEC/880

Geneva, 6 to 31 July 1998

Ms. Ashford, presiding
Mr. Amerasinghe
Mr. Haugh

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Case No. 987: Khalil

(Khalil against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by former UNRWA staff member for correction of his date of birth in official records and for compensation deriving from resulting change in date of retirement)
Judgement AT/DEC/903

New York, 4 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Case No. 988: Noyen

(Noyen against the Secretary-General of the United Nations)
(Claim by former United Nations staff member appointed under the 200 Series for payment of life insurance premiums allegedly withheld illegally from his emoluments for the period 1976–1980)
Judgement AT/DEC/904

New York, 27 October to 20 November 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Haugh

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Case No. 990: El-Far

(El-Far against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by UNRWA staff member for rescission of the decision not to promote him to grade 12)
Judgement AT/DEC/905

New York, 4 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Amerasinghe

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Case No. 992: Ziadeh

(Ziadeh against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by former UNRWA area staff member for reinstatement and rescission of the decision to terminate his appointment on grounds of health)
Judgement AT/DEC/906

New York, 5 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Haugh

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Case No. 993: Salvia

(Salvia against the Secretary-General of the United Nations)
(Claim by former staff member of the Economic Commission for Latin America and the Caribbean (ECLAC) serving on a 200 Series appointment that she had an expectancy that her fixed-term contract would be extended)
Judgement AT/DEC/907

New York, 9 to 20 November 1998

Mr. Thierry, President
Mr. Gabay
Mr. Barboza

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Case No. 994: Baghoud

(Baghoud against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by UNRWA area staff member for rescission of the disciplinary decisions to transfer, to censure and to demote her)
Judgement AT/DEC/908

New York, 27 October to 20 November 1998

Mr. Thierry, President
Mr. Amerasinghe
Mr. Haugh

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Case No. 995: Parker

(Parker against the Secretary-General of the United Nations)
(Claim by former United Nations staff member that his promotion, approved on 1 November 1994, should be implemented with retroactive effect from 1 January 1994, the date on which he assumed the functions of the higher-level post)
Judgement AT/DEC/891

Geneva, 7 July to 7 August 1998

Mr. Thierry, President
Mr. Gabay
Mr. Haugh

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Case No. 1003: Sims

(Sims against the Secretary-General of the United Nations)
(Claim by former United Nations staff member for compensation on account of procedural errors committed by the Secretary-General that allegedly harmed his career)
Judgement AT/DEC/909

New York, 28 October to 20 November 1998

Mr. Gabay, presiding
Ms. Ashford
Mr. Amerasinghe

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Case No. 1006: Soares

(Soares against the Secretary-General of the United Nations)
Claim by former UNDP staff member for rescission of the decision to terminate her appointment, by an agreed termination. Claim that decisions to refuse to grant her special leave with pay for study purposes shortly before separation from service and to refuse to commute annual leave into cash were improper)
Judgement AT/DEC/910

New York, 9 to 20 November 1998

Mr. Gabay, presiding
Mr. Barboza
Mr. Amerasinghe

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Case No. 1007: Sharshara

(Sharshara against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by widow of former UNRWA area staff member that remaining percentage of disability payments and separation benefits due to her late husband should be paid at the United States dollar/Syrian pound rate of exchange in force at the time of his separation from service)
Judgement AT/DEC/911

New York, 3 to 20 November 1998

Mr. Thierry, President
Mr. Barboza
Mr. Yenyi Olungu

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Case No. 1011: Dannan

(Dannan against the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East)
(Claim by UNRWA area staff member that the Agency failed to reassign him to a grade 13 post that was vacant and for which he was suitably qualified)
Judgement AT/DEC/912

New York, 30 October to 20 November 1998

Mr. Thierry, President
Mr. Amerasinghe
Mr. Haugh

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E. Schedule for 1999 sessions

6. Taking into consideration the number of cases so far submitted to it, the Tribunal decided that the first ordinary session, referred to in article 6, paragraph 2, of its rules, would be held in Geneva beginning in June 1999, and that its second session would be held at Headquarters during the last quarter of 1999, pursuant to articles 5.1 and 6.2 of its rules.

F. Operational issues

7. In its annual note for the year 1991, the Tribunal requested the General Assembly to convert two of the posts in its four-member secretariat, one Professional and one General Service, into permanent posts. Those two posts had been allotted to the Tribunal on a temporary basis since 1989, after it had been recognized that the caseload of the Tribunal required the additional posts. In its annual note for the year 1997, the Tribunal informed the General Assembly that those two posts, rather than being made permanent, had been abolished. The Tribunal's secretariat is now composed of only two staff posts and relies on temporary assistance funds to maintain two temporary positions. The Tribunal wishes to draw the attention of the General Assembly to the fact that in the years 1950–1984, when the Tribunal's secretariat consisted of two staff members, the Tribunal rendered 342 judgements, or approximately 10 per year. In the years 1985–1988, the Tribunal rendered 97 judgements, or approximately 24 per year. In 1989, when its secretariat was increased to four staff members, the Tribunal rendered 32 judgements. Over the next several years, as the Tribunal's jurisdiction was expanded by the General Assembly and its caseload grew, the number of judgements that the Tribunal rendered increased steadily until it had almost doubled. In 1996, for example, the Tribunal rendered 61 judgements, and in 1997, it rendered 60 judgements. Unless the two abolished posts are restored as staff posts, the Tribunal's ability to fulfil its mandate will be severely impaired.